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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE CIVIL JURISDICTION

WRIT PETITION NO.5269 OF 1998

Shri Tanaji Ganpat Patil
Bhagyanagari No.1, Survey No.668/5B
Bibwewadi, Pune ... Petitioner

V/s.

1.State of Maharashtra
through its Secretary, Tribal
Development Department,
Mantralaya, Mumbai

2. Chairman
Committee for Scrutiny &
Verification of Tribe Claims, Pune

3. Execuive Magistrate
Tasgaon, Dist.: Sangli

4. The Secretary
Irrigation Department, Mantralaya
Mubai ... Respondents

Mr.R.K. Mendadkar with Ms.H.K. Mandlik for Petitioner
None for Respondents

CORAM: **V.G. PALSHIKAR, Ag.C.J &**
SMT.NISHITA MHATRE, J.

JUDGMENT RESERVED ON: **JANUARY 31, 2005**
JUDGMENT PRONOUNCED ON: **FEBRUARY 10, 2006**

JUDGMENT (PER SMT.NISHITA MHATRE, J.):

. By this Petition, the Petitioner has challenged the order of the Scrutiny Committee rejecting his request for validation of the caste certificate indicating that the Petitioner belongs to the Scheduled Tribe known as Mahadeo-Koli.

2. An order came to be passed on 24.2.1995 by the Scrutiny Committee declaring the certificate to be invalid. The Petitioner, aggrieved by this decision, preferred a Writ Petition No.2521 of 1995 before this Court. This Court remanded the case to the Scrutiny Committee for a fresh consideration for validation of the certificate. A personal hearing was afforded to the Petitioner when he filed 12 documents in support of his claim being a tribal. The Scrutiny Committee reiterated its earlier decision on 24.10.1995. The Petitioner preferred a writ petition in this Court being Writ Petition No.1618 of 1996. The impugned order was set aside on 15.3.1996 and a newly formed scrutiny committee was directed to rehear the matter. As a consequence of the order of this Court, a personal hearing was afforded to the Petitioner and the order impugned in this Petition came to be passed.

3. The scrutiny committee has relied on the documents produced by the Petitioner at an earlier stage as also the extract from the birth register issued by the Tehsildar, Tasgaon, where the Petitioner’s caste has been recorded in 1939 as Koli. A letter issued by the Headmaster, Swami Ramanand Vidyalaya, Ramanandnagar, Sangli where the Petitioner was educated has also been

taken on record by the Scrutiny Committee. This letter indicated that the caste of the Petitioner had been changed from Koli to Mahadeo Koli in the school records in accordance with the letter dated 4.2.1987 received from the Education Inspector of Schools, Satara. The Petitioner failed to appear for the hearing on 11.11.1997 and did not furnish any explanation in respect of the tribal claim.

4. The Scrutiny Committee on the basis of the documents and other material on record invalidated the certificate issued to the Petitioner.

5. The first contention of the learned Counsel for the Petitioner was that the Scrutiny Committee had applied the affinity test while rejecting the caste claim of the Petitioner. He submitted that this test ought not to have been applied in view of the various judgments of this Court and the Supreme Court. On a bare perusal of the impugned order, we find that the Scrutiny Committee has not based its order exclusively on the affinity test but on various other criteria. Therefore, the submission of the learned Counsel must be rejected.

6. The Petitioner sought to place reliance on the

caste certificate issued to his maternal uncle indicating that he belongs to the Mahadeo-Koli Scheduled Tribe. However, it is a settled position in law that the caste of the paternal relatives of the candidate is to be considered in order to determine his/her caste claim. Therefore, the certificate issued to the maternal uncle of the Petitioner is of no avail to the Petitioner. Besides this, the affidavit filed by the maternal uncle before the Scrutiny Committee has been considered by the Committee which has held that it could not be treated as conclusive proof of the candidate's tribe claim.

7. The next contention raised by the learned Counsel for the Petitioner is that the Scrutiny Committee was at fault in discarding the school record of the Petitioner where the Petitioner's caste was shown as Hindu Mahadeo Koli. The Scrutiny Committee has given adequate reasons for rejecting this document. The school records were discarded by the Committee since the change in the caste mentioned in the school leaving certificate had been made from Koli to Mahadeo Koli pursuant to the letter of the Education Inspector, Schools, Satara dated 4.2.1957. Since the change was effected in the school records after the Presidential Order of 1950 notifying the tribe Mahadeo Koli as a

scheduled tribe, the Committee has rightly discarded this document. According to the Petitioner, he was born in Sangli district and the tribe Mahadeo Koli was not recognised as a scheduled tribe in the Sangli district in 1957 but only after the area restriction was removed in 1976. The Education Inspector of schools, Satara who was the Competent Authority for changing the records maintained by the school had written to the school in 1957 itself to make the appropriate change in the caste of the Petitioner. According to the learned Counsel for the Petitioner, the change having been made in accordance with the law, it should not have been discarded by the Scrutiny Committee. We have already found that the Scrutiny Committee had discarded this evidence of the school leaving certificate for good reasons and therefore, the submission of the learned Counsel is not tenable.

8. The third contention raised on behalf of the Petitioner is that the extract of the birth register which shows the petitioner's caste has Koli ought to have been ignored since it was an isolated instance of the caste of the Petitioner being recorded as Koli. In our opinion, since this document predates the Presidential Order of 1950, it has higher probative value as held by the various judgments of the Apex

Court. Therefore, the Petitioner's contention that the birth extract showing the Petitioner's caste as Koli was an isolated instance must be rejected. The Petitioner cannot, at his convenience disregard documents which have a higher probative value only because the caste recorded in those documents is Koli and not Mahadeo Koli. We see no reason to accept the submission made by the learned Counsel.

9. All the other documents produced by the Petitioner have been considered by the Scrutiny Committee which has recorded the finding that those documents have been issued after the Presidential Order of 1950 and, therefore, the Petitioner had failed to prove his caste.

10. The submission of the learned Counsel for the Petitioner is that the Scrutiny Committee ought not to have considered the documents and evidence on record produced before the earlier committee since its order had been set aside. In our opinion, this submission is fallacious since it was only the order which was set aside as the evidence on record was not properly appreciated.

11. The Scrutiny Committee after considering the

evidence on record has arrived at a conclusion which in our opinion, cannot be faulted. The reasons given by the Scrutiny Committee for arriving at its conclusion is based on cogent evidence on record. We see no reason to interfere with the findings of the Committee under Article 226 and 227 of the Constitution of India. In our view, therefore, the Scrutiny Committee has committed no error in invalidating the caste certificate issued to the Petitioner by the Tehsildar, Tasgaon. The Petitioner has failed to prove his claim that he belongs to Mahadeo Koli Scheduled Tribe. Rule discharged. No order as to costs.

12. Petition is disposed off accordingly.